

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 12794, of Falcon Construction Company, Inc., pursuant to Paragraph 8207.11 of the Zoning Regulations, for a variance from the lot area requirements (Sub-section 3301.1) to construct a detached dwelling in an R-2 District at the premises 5610 Foote Street, N.E., (Square 5216, Lot 1).

HEARING DATE: November 15, 1978
DECISION DATE: January 10, 1979

FINDINGS OF FACT:

1. The subject property is located at the northwest quadrant of the intersection of Foote Street and 57th Street in an R-2 District at the premises known as 5610 Foote Street, N.E.
2. The subject site is presently vacant, wooded and unimproved.
3. The applicant proposes the construction of a one story and basement single family detached dwelling on the site, with a concrete driveway to serve one parking space.
4. The lot is 3,406 square feet in land area and is irregular in shape, with the lot being much wider at the front than it is deep. The highest elevation on the site is several feet lower than the abutting street grades.
5. The property is surrounded to the north by a fifteen foot wide alley, followed by single family dwellings, to the east across 57th Street by a single family dwelling adjoined by semi-detached dwellings, to the south across Foote Street by a wooded parcel of land, and to the west by two wooded parcels of land, all of which are in the R-2 District.
6. Sub-section 3301.1 of the Zoning Regulations requires a minimum lot area of 4,000 square feet for a single family detached dwelling in an R-2 District. The subject lot provides 3,406 square feet. Thus a variance of 594 square feet or 14.34 per cent is required.

7. The subject property if developed, will comply with the requirements of the Zoning Regulations with respect to rear yard, side yard, lot occupancy, lot width and off-street parking requirements.

8. The Municipal Planning Office, by report dated November 6, 1978, recommended approval of the application based on the applicant's compliance with all aspects of the Zoning Regulations with the exception of minimum lot area, and the triangular shape of the lot. The MPO reported that a variance will not impair the intent purpose and integrity of the Zoning Regulations and Map.

9. Advisory Neighborhood Commission 7C, by report dated November 15, 1978 and by testimony at the hearing, did not oppose some residential development of this property. The ANC stated however, in its view, the dwelling unit proposed in this application does not conform with the majority of the existing houses in the area of 56th and Foote Streets. The Executive Committee of the ANC voted to recommend that the Board deny the variance.

10. At the public hearing on November 15, 1978, the Board expressed the hope that the applicant and the ANC would meet to try and resolve the ANC's problems with the application.

11. Subsequent to the hearing, the applicant met with the ANC on December 5, 1978. The applicant submitted a letter dated December 6, 1978, and the ANC submitted a letter dated December 26, 1978, describing that meeting. The ANC letter described three basic areas of concern as follows:

1. The basement of the dwelling has no exit from the basement level, thus posing a safety problem.
2. The dwelling does not have full size windows in the basement.
3. The dwelling does not conform to the majority of the existing dwellings, and therefore, has a negative impact upon the neighborhood.

12. As to the issues and concerns of the Advisory Neighborhood Commission, the Board finds that it cannot function as an architectural review board, and that its basic functions in this case is to determine whether the basis for granting a variance exists. The Board must however, determine in all variance cases whether the relief can be granted "without substantial detriment to the public good and without substantially impairing the intent, purpose and integrity of the zone plan." To comply with that requirement, and to meet the concerns of the ANC, the Board will impose conditions on the grant of this application related to the design of the house to make it more compatible with the area in which it is located.

13. There was no opposition to the granting of the application other than from the ANC.

CONCLUSIONS OF LAW AND OPINION:

Based on the above Findings and the evidence of record, the Board is of the opinion that the requested variance is an area variance, the granting of which requires the showing of a practical difficulty. The Board concludes that given the irregular shape of the lot, and the applicant's ability to meet all of the requirements of the Zoning Regulations with the exception of minimum lot area, such a practical difficulty does exist.

The Board further concludes that the requested variance can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose and integrity of the zone plan as embodied in the Zoning Regulations and Maps.

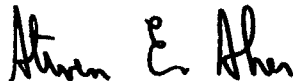
The Board concludes that it has accorded to the ANC the "great weight" to which it is entitled by statute. Accordingly, it is hereby ORDERED that this application is GRANTED subject to the following CONDITIONS:

1. The applicant shall include in the plans provisions for an exterior exit from the basement level.
2. The dwelling shall have normal size basement windows in the basement level, such windows being similar to those shown in the photographs submitted by the applicant attached to Exhibit 18 of the record.

VOTE: 4-0 (Charles R. Norris, William F. McIntosh, Chloethiel
Woodard Smith and Leonard L. McCants to GRANT;
Walter B. Lewis not present, not voting).

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

ATTESTED BY:



STEVEN E. SHER
Executive Director

FINAL DATE OF ORDER: 1 MAR 1979

THAT THE ORDER OF THE BOARD IS VALID FOR A PERIOD OF SIX MONTHS
ONLY UNLESS APPLICATION FOR A BUILDING AND/OR OCCUPANCY PERMIT IS
FILED WITH THE DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT
WITHIN A PERIOD OF SIX MONTHS AFTER THE EFFECTIVE DATE OF THIS
ORDER.